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The Far-Reaching Tentacles of the Alternative Minimum Tax: A Glimpse at Past Legislation

Executive Summary

- Although Democrats now seem to have vocally united as a party against the Alternative Minimum Tax's (AMT) reach, it was this same party that, when it last controlled both the legislative and executive branches, passed a law to cast the AMT net even wider over the middle class.
- Today, the AMT represents an excessive tax burden for millions of Americans, and one that will grow exponentially if it remains unchecked. In addition to affecting millions of middle-income taxpayers, even the original purpose of the AMT – to target the few who were avoiding tax liability – is frustrated.
- If further action is not taken, it is estimated that the AMT could claim 35 million families and individuals by the end of this decade.
- Changes enacted by Democrat majorities increased the AMT's effect on taxpayers while several attempts by Republicans to repeal or alleviate its effects were opposed by most Democrats.
- In 1993, the last time that Democrats controlled the House, Senate, and Presidency, Congress raised the AMT rates and failed to index the exemption amounts for inflation.
 - But for the 1993 increase and its failure to index for inflation, only 2.6 million tax filers would be subject to an AMT penalty next year rather than the projected 25 million under current law.
- Under Republican control, Congress passed The Taxpayer Relief Act of 1999, which contained a provision to repeal the AMT.
 - With no Senate Democrats supporting it, the bill passed the Senate and Congress only to be later vetoed by President Clinton on September 23, 1999.
- During the recent Budget Resolution debate, three Republican amendments would have reduced or eliminated the impact of the AMT. However, only one Democrat Senator voted "yes" for just one of the three amendments relating to AMT.
- Despite their recent assertions expressing opposition to the AMT's growing reach, the Democrats' record on the AMT indicates a change in message. It is important to provide some perspective as to why the AMT developed into the menace it is today.

Introduction

Since before the November elections, Democrats, in particular, have publicly focused on the need to fix the growing Alternative Minimum Tax (AMT) problem.¹ Numerous Democrats promised to protect the middle class from the snarls of the AMT. However, although Democrats now seem to have vocally united as a party against the AMT's reach, it was this same party that, when it last controlled both the legislative and executive branches, passed a law to cast the AMT net even wider over the middle class. This paper highlights some of the more recent legislative history in order to provide some perspective as to why the AMT is such a menace today.

Background on the AMT

At its inception in 1969, the individual Alternative Minimum Tax (AMT) was intended to address a report by the Treasury Department that 155 high-income Americans avoided paying any federal income taxes in 1966 through the aggressive use of tax deductions and other legal techniques for sheltering income.² Today, by threatening to capture as many as 25 million Americans under current law, the AMT has mutated into a middle-class tax burden.

Since its inception in 1969, more than 20 pieces of legislation have made changes to the AMT. The original AMT rate was 10 percent on amounts in excess of the then-exemption of \$30,000. By 1990, the AMT rate had increased to 24 percent. Today, the top AMT rate is at 28 percent.

The AMT has become both a menace and a misnomer of the American income-tax system. It represents an unfair and oppressive tax burden on American taxpayers. Moreover, its name belies its effect. It is not an "alternative" to the income tax – it is a mandatory, parallel tax system with which taxpayers must comply. And, it is not a "minimum" tax – Americans must pay the higher of their regular income tax or the AMT.

Today, the AMT represents an excessive tax burden for millions of Americans, and one that will grow exponentially if it remains unchecked. If further action is not taken, it is estimated that the AMT could claim 35 million families and individuals by the end of this decade.³ That is a substantial reach from the 3.5 million filers that are estimated to be affected by the AMT in 2006.⁴

¹ "Rangel noted in the interview, a priority for the new Congress should be reforming the alternative minimum tax, a system designed originally to make sure wealthy people cannot avoid paying taxes but which has increasingly affected middle-class taxpayers," Christian Science Monitor, *GOP Shifts Back to a Basic Issue: Taxes*, October 18, 2006.

² Statement of Eric Solomon, Assistant Secretary for Tax Policy, U.S. Department of the Treasury, Testimony Before the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means, available at <http://waysandmeans.house.gov/hearings.asp?formmode=view&id=5588> (March 7, 2007).

³ Senator Charles Grassley, *Cong. Rec.*, February 12, 2007.

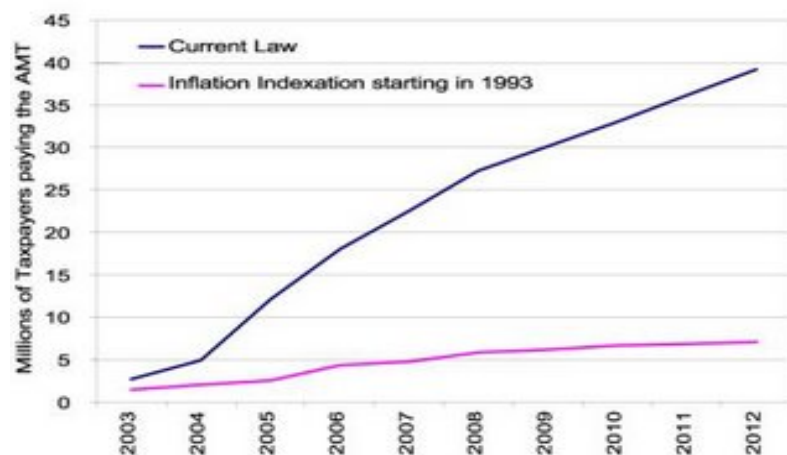
⁴ The large difference in taxpayers affected in 2006 versus 2007 is due to the "hold-harmless patch" that expired at the end of 2006.

1993 Act Broadened the Reach of the AMT

While the Democrats continue their misleading portrayal of the AMT as a problem resulting from the Republican 2001 and 2003 tax relief packages, it is important to look back at other attempts to change the AMT. Changes enacted by Democrat majorities increased the AMT's effect on taxpayers while several attempts by Republicans to repeal or at least alleviate its effects were opposed by most Democrats.

In 1993, the last time that Democrats controlled the House, Senate, and Presidency, Congress raised the AMT rates to their current rates. The Omnibus Budget Reconciliation Act of 1993 created a two-rate AMT tax system, raising the rates from 24 percent to 26 percent for taxpayers with income under \$175,000 and to 28 percent for taxpayers with income over \$175,000.⁵ While the 1993 bill did raise the exemption amounts, the Democrats failed to index the AMT income exemption or the new rate brackets for inflation, a major reason that the AMT entraps so many taxpayers today. Because of the failure to index for inflation, in a ten-year period “this stealth tax hike increased sixfold the number of filers paying the AMT, to nearly 2 million from 300,000.”⁶ This 1993 Act passed with *no Republican votes*,⁷ and 30 Democratic Senators who voted for the rate increase (some of whom were then serving in the House) are still in office.⁸

The chart below, from the American Shareholders Association, demonstrates the far-reaching impact of the 1993 law. It compares the number of filers who will be hit by the AMT under current law to the number who would have been hit had the AMT rate not been changed in 1993 and had the exemption been indexed for inflation at the 2005 level (\$40,250 for singles and \$58,000 for joint filers). But for the Democrat Congress' 1993 increase and its failure to index for inflation, only 2.6 million tax filers would be subject to an AMT penalty in 2007 rather than the projected 25 million under current law.



⁵ Public Law 103-66.

⁶ *Wall Street Journal*, “Bill Clinton’s AMT Bomb,” February 23, 2007.

⁷ U.S. Senate Roll Call Votes 103rd Congress – 1st Session, on H.R. 2264, available at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=103&session=1&vote=00247 (August 6, 1993).

⁸ Press Release from Americans for Tax Reform, H.R. 2264: Omnibus Budget Reconciliation Act of 1993 – 08/06/1993, available at <http://www.atr.org/content/html/2007/feb/022207pr-amthypocrisy.htm> (February 22, 2007).

Legislation Aimed at Helping Middle-Class Taxpayers

Later in the 1990s, Congress, under Republican control, passed The Taxpayer Relief Act of 1999, which contained the following provision: Section 121, Repeal of the Alternative Minimum Tax on Individuals: “For purposes of this title, the tentative minimum tax on any taxpayer other than a corporation for any taxable year beginning after December 31, 2007, shall be zero.”⁹ With no Senate Democrats supporting it, the bill passed the Senate only to be later vetoed by President Clinton on September 23, 1999. Thirty-seven current Democratic members of the Senate voted *against* the bill.¹⁰ According to President Clinton’s veto statement:

I am returning herewith without my approval of H.R. 2488, because it ignores the principles that have led us to the sound economy we enjoy today and emphasizes tax reduction for those who need it least....The prudent course in the face of these uncertainties is to avoid making financial commitments, such as massive tax cuts, that will be very difficult to reverse....¹¹

Democratic claims that the Bush tax cuts are responsible for much of the current AMT problem are inaccurate. The Economic Growth and Tax Relief Reconciliation Act of 2001 not only provided needed income tax relief, but also provided AMT relief as well. The 2001 act permanently allowed the child tax credit, the adoption tax credit, and the IRA contribution credit to be claimed against a taxpayer’s AMT. In addition, the act increased the exemption amount through 2004.¹² “Since the 2001 tax relief bill, the Finance Committee has produced packages to continue to increase the exemption amounts to keep taxpayers ahead of inflation, with the most recent being the Tax Increase and Reconciliation Act of 2005, which increased the AMT exemption to \$62,550 for joint returns and \$42,500 for individuals through the end of 2006.”¹³

The most recent attempts in the Senate to provide middle-income taxpayers protection from the AMT took place during debate on the Senate Budget Resolution, S.Con.Res. 21. During the debate, three Republicans offered amendments that would have reduced or eliminated the impact of the AMT on American taxpayers. However, nearly all Democrats voted *against* any of the AMT relief amendments, with only *one* Democrat Senator voting “yes” for just one of the three amendments relating to AMT.

⁹ U.S. Senate Roll Call Votes 106th Congress - 1st Session, on H.R. 2488, available at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=106&session=1&vote=00261 (August 5, 1999).

¹⁰ Press Release from Americans for Tax Reform, H.R. 2488 -- To amend the Internal Revenue Code of 1986, available at <http://www.ATR.org/content/html/2007/march/031607pr-1999amtcaucus.html> (March, 16, 2007).

¹¹ President Clinton, Veto Statement of H.R. 2488, September 23, 1999 available at <http://www.lib.umich.edu/govdocs/text/prs92399.txt>.

¹² Public Law 107-16. WFTRA extended the patch through 2005 and TIPRA extended the patch again through 2006.

¹³ Senator Grassley, *Cong. Rec.*, February 12, 2007.

Grassley Amendment #471: To repeal the AMT. The amendment failed, 44-53, with no Democrat voting in favor of the amendment.¹⁴

Sessions Amendment #473: To permit a deduction for personal exemptions for purposes of computing the AMT. The amendment failed, 46-53, with no Democrat voting in favor of the amendment.¹⁵

Lott Amendment #606: To repeal the 1993 Clinton AMT tax increase that generally increased AMT rates from 24 percent to the current two-tiered rate structure of 26 percent and 28 percent. The amendment failed, 49-50, with only one Democrat Senator, Ben Nelson (NE), voting in favor of the amendment.¹⁶

The Rhetoric, Then vs. Now

What the Democrats Used to Say About the AMT

[Republicans] eliminate the alternative minimum tax that guarantees that the wealthiest of Americans will pay some kind of tax....[They] give the wealthiest of Americans an exemption from the alternative minimum tax that guarantees fairness.

Senator John Kerry, Floor Statement, August 5, 1999

By raising the income tax rate to 31 percent, phasing out personal exemptions, limiting deductions for taxpayers earning over \$100,000 and increasing the alternative minimum tax, this bill ensures that those with the ability to pay contribute to the deficit reduction package.

Senator Patrick Leahy, Floor Statement, October 27, 1990

We have designed a package to present to our colleagues to try to improve the package, to try to have one that is more fair to the middle class and to the other groups we have identified. We have done that by taking the top rate to 33 percent...increasing the alternative minimum tax for those who seek to avoid tax liability.

Senator Kent Conrad, Floor Statement, October 17, 1990

What the Democrats Now Say About the AMT

The AMT is a looming problem that is impacting hard-working families and for each year that we fail to address the AMT, it gets worse and more expensive.

Senator John Kerry, Floor Statement, May 17, 2006

¹⁴ U.S. Senate Roll Call Votes 110th Congress - 1st Session, on S.Amdt. 471 to S.Con.Res. 21, available at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00108 (March 23, 2007).

¹⁵ U.S. Senate Roll Call Votes 110th Congress - 1st Session, on S.Amdt. 473 to S.Con.Res. 21, available at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00100 (March 23, 2007).

¹⁶ U.S. Senate Roll Call Votes 110th Congress - 1st Session, on S.Amdt. 606 to S.Con.Res. 21, available at http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00113 (March 23, 2007).

AMT relief is a critical part of the Senate's version of this bill, and we all must do everything we can to ensure that this tax – which affects middle-class and upper-class taxpayers, above all – is addressed this year.

Senator Charles Schumer, Floor Statement, February 1, 2006

The alternative minimum tax was never intended to apply to middle-class families, and they deserve tax relief.

Senator Edward Kennedy, Floor Statement, February 13, 2006

Conclusion

Despite their recent assertions expressing opposition to the AMT's growing reach, the Democrats' record on the AMT indicates a change in message. Although they now claim to be in favor of alleviating the strain of the AMT, their actions and rhetoric in the 1990s belie that position, and that position was certainly not the case during votes on this year's Budget Resolution. To address the serious problems presented by the AMT today, Congress needs to understand the history of how the AMT developed into the burden it is today, and then take serious steps to eradicate that menace once and for all.